




JOURNALISTS SAFETY LAW FOR PAKISTAN

A best practices draft bill developed by stakeholders



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to establish the National Journalists Safety Council for protection and safety of Journalists and ensure prosecution of offences committed against them for their acts of Journalism.

The National Journalists Safety Council (NJSC) is required to be established for protection and safety of Journalists; to ensure proper investigation and prosecution of offences committed against them for their acts of Journalism; and to deal with other related matters.

Be it enacted by the Parliament of Pakistan as follows:

1. Short title and commencement.– (1) This Act may be cited as the National Journalists Safety Act 2017.

(2) It extends to whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.– In this Act:

(a) “Council” means the National Journalists Safety Council established under the Act;

(b) “employer” includes owner of a media house or a person who has controlling share in a media house;

(c) “Government” means the Federal Government;

(d) “Journalist” means any or all persons practicing the acts of Journalism and includes other media and information practitioners such as media assistants and workers, freelancers, bloggers, etc.;

(e) “journalism” means the act of offering information, news and opinion;

(f) “media house” means broadcasting and narrowcasting medium body corporate such as a newspaper, magazine, television or radio;

- (g) “prescribed” means prescribed by rules or regulations;
- (h) “regulations” means the regulations framed by the Council under the Act;
- (i) “rules” means the rules made by the Government under the Act; and
- (j) “Special Prosecutor” means the Special Prosecutor appointed under the Act.

3. The Council.– (1) The Government shall, within 60 days of the enactment of this Act, by notification, establish a Council to be called ‘the National Journalists Safety Council’.

(2) The Council shall be a body corporate, having perpetual succession and a common seal, with power to enter into contracts, acquire or dispose of property, and may sue or be sued.

4. Constitution of the Council.– (1) The Council shall consist of the following nine members:

- (a) Members of the National Assembly, one each from the treasury and opposition benches to be nominated by the Speaker;
- (b) President, by designation, of the Pakistan Federal Union of Journalists (PFUJ);
- (c) President, by designation, of the National Press Club (NPC);
- (d) Media safety expert / activist with at least fifteen (15) years of experience in journalism and media safety advocacy;
- (e) Civil society representative with at least fifteen (15) years of journalism, human rights or legal background; nominated by the National Commission on Human Rights (NCHR);
- (f) Special Prosecutor (Member/Secretary), *ex-officio*.
- (g) The secretary, Ministry of Information;
- (h) The secretary, Ministry of Interior.

(2) The Government shall constitute the Council for three years but the existing Council shall continue to function till the constitution of new Council despite the expiry of the term of the Council.

(3) The members of the Council, in its very first meeting of a new tenure, elect the Chairperson and Vice Chairperson from amongst the (b), (c), (d) and (e) under the sub-section (1).

(4) A member of the Council, other than an *ex-officio* member, shall not be nominated as a member for more than two consecutive terms.

(5) No act or proceedings of the Council shall be invalid merely by reason of any vacancy or defect in the constitution of the Council.

(6) Simple majority of members shall constitute the quorum for a meeting of the Council, and a decision of the Council shall be taken with a simple majority of the members present and voting. In case of an equality of votes, the person chairing the meeting will have a deciding vote.

(7) The Council shall meet at least once in a quarter and a meeting of the Council shall be held on such date and time as the Chairperson may determine.

(8) The Chairperson and, in his absence, the Vice Chairperson shall preside a meeting of the Council and in the absence of both, the meeting shall be presided by the member elected to preside the meeting by the members present.

(9) The Special Prosecutor shall maintain or cause to be maintained the record of each meeting of the Council, including the minutes of the meetings, in the prescribed manner.

5. Disqualification of the members.— No person shall be appointed or continue as the member of the Council, who:

- (a) is or, at any time, has been convicted by a court of law; or
- (b) is in a situation of irreconcilable conflicting interest with the Council.

6. Functions.— (1) The Council may perform such functions and exercise such powers as are necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the functions mentioned in subsection (1), the Council shall:

- (a) introduce and implement mechanisms for protection through temporary or permanent relocation, anonymity by changing name and identity of the under-threat Journalist or by securing the Journalist in a safe location ; and any necessary resources such as safety equipment, dedicated helpline.
- (b) issue necessary directions to media houses and employers on occupational safety and health of Journalists including formulation and implementation of safety policies and protocols;
- (c) develop and implement threat monitoring and referral templates and mechanisms for assistance.
- (d) collect and disseminate data periodically and produce an annual report on state of threats and safety of Journalists in the province and present it to the national legislature;
- (e) create a National Journalists Safety Fund to assist the Journalists under attack, or facing threats of attacks, including sexual or psychological harassment, with protection measures including, among others, legal aid, medical aid and relocation within the country;
- (f) extend financial aid for families of journalists killed in the line of duty;
- (g) supervise investigation of threats and prosecution of crimes against Journalists, ascertain and address causes of impunity of crimes against Journalists;

- (h) Professional support, including psychological counselling, including during relocation or for purposes of return.

7. Duty to assist the Council.– (1) The investigation, prosecution and any other state agencies and departments necessary shall assist the Council in the performance of its functions.

(2) The Council may issue direction to a police officer or any other investigation officer or prosecutor of the Government in case of an offence committed against the Journalist and the Police or investigation officer or prosecutor shall comply with the direction of the Council unless, for reasons to be recorded in writing by an officer not below the rank of head district police or district public prosecutor, place the matter before the Council whose decision shall be final.

8. Special Prosecutor.– (1) Subject to subsection (2), the Council shall select the Special Prosecutor from amongst a panel of three qualified legal experts with authority required for the purposes of this act, nominated by the Government.

(2) The Special Prosecutor shall hold office for a renewable term of three years.

(3) The Council shall determine the terms and conditions of, service remuneration and perks of the Special Prosecutor and they shall not be varied during his term of office.

(4) The Council may, after notice and inquiry in the prescribed manner, remove the Special Prosecutor during the tenure of his office on the ground of inefficiency, corruption or inability to perform functions owing to medical or other reasons.

(5) The Special Prosecutor shall be the chief executive officer of the Council and, subject to the general supervision and direction of the Council, shall exercise such administrative and financial powers of the Council under the Act, rules, regulations or as the Council may delegate to him.

9. Functions of Special Prosecutor.– The Special Prosecutor shall:

- (a) act as chief executive officer of the National Journalists Safety Council;
- (b) oversee investigations of the cases of crimes against Journalists and undertake/lead prosecution thereof;
- (c) ensure timely collection or securing of forensic and testimonial evidence;
- (d) ensure protection of survivors, witnesses and other evidentiary elements of the case;
- (e) direct authorities for registration of criminal cases where a Journalist or heirs of a Journalist are unable to get the case registered;
- (f) exercise powers of *ex officio* Justice of Peace under section 22A of the Code of Criminal Procedure, 1898 (V of 1898);
- (g) monitor and keep track of the investigation and prosecution cases of crimes against Journalists;
- (h) monitor threats against and overall state of safety for Journalists in the Province using special templates and mechanisms developed or suggested by the Council;
- (i) devise an early warning system for safety of Journalists and take necessary actions related to combating impunity;
- (j) take steps for early investigation and decision of cases of crimes against Journalists; and
- (k) devise special systems where there are allegations of officials' involvement in crimes against a Journalist or a media house.

10. Officials.– The Council, for the discharge of its functions under this Act, may appoint officials in such manner and on such terms and conditions as it may, through regulations, determine.

11. Compensation to Journalists and witnesses.– (1) The Council shall, in the prescribed manner, pay compensation to a Journalist who is victim of an offence or to his legal heirs in case the Journalist is killed.

(2) The Council shall, in the prescribed manner, pay compensation to a witness who is targeted just being a witness in a case in which a Journalist is victim of the offence or to his legal heirs if the witness is killed for such cause.

12. Right to prosecute .– (1) Notwithstanding anything contained in any other law, the Council may, by notification, direct the Special Prosecutor or any other prosecutor nominated by the Council to perform the functions of a public prosecutor in a case in which a Journalist is victim of the offence.

(2) If a notification under subsection (1) is issued, the Special Prosecutor or any other prosecutor nominated by the Council shall be deemed to be the public prosecutor and perform all the acts required to be performed by a public prosecutor any law.

13. Safe houses .– The Council may establish safe houses or designate a safe location to accommodate the Journalist under threat to life or witness of case in which a Journalist is victim of the offence.

14. National Journalists Safety Fund.– (1) There shall be established a fund to be known as the National Journalists Safety Fund to be administered and controlled by the Council.

(2) The Fund shall consist of:

- (a) funds, loans, grants, seed money provided by the Government, or any other source by it;
- (b) grants and loans negotiated and raised, or otherwise obtained, by the Council;
- (c) fee, charges, rentals, fines, interests and other moneys collected by the Council;
- (d) income from the lease or sale of any property;

(e) all other sums received by the Council.

(3) The Council shall meet all its expenses from the Fund and shall exercise prudence in its expenditures from the National Journalists Safety Fund.

15. Bank account.— The Council may open and maintain its accounts at such scheduled banks as may be prescribed, and until so prescribed, as the Council may determine.

16. Budget and accounts.— (1) The Special Prosecutor shall prepare the budget of the Council for each financial year commencing on first day of July of an year and ending on thirtieth day of June of the succeeding year.

(2) The Special Prosecutor shall place the budget for approval before the Council at least forty five days prior to the commencement of a financial year.

(3) The accounts of the Council shall be maintained in such manner as may be prescribed.

17. Audit.— The Auditor General of Pakistan shall conduct annual audit of the accounts of the Council.

18. Public servants.— All persons acting or purporting to act in pursuance of any provision of this Act, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

19. Delegation of functions.— The Council may delegate to the Special Prosecutor, a committee of the Council, a member or any employee of the Council any of its functions except the following functions:

- (a) framing or amendment or repeal regulations;
- (b) approval of annual budget of the Council;
- (c) consideration and decision on the audit reports;
- (d) approval of the standards and procedures for operation of the Council; or
- (e) fill a vacancy in a committee of the Council.

20. Conflict of interest.— (1) A member shall not, directly or indirectly, receive any profit from his position as the member except the reasonable expenses incurred by the member in the performance of duties under this Act.

(2) The pecuniary interests of the immediate family members or close personal or business associates of a member shall also be considered to be the pecuniary interest of the member.

(3) A member shall be in conflict of interest if the member:

- (a) is an employee, or a paid consultant of a business entity that has, or of a trade association of business entities that have, a substantial interest in any of the functions of the Council;
- (b) owns, controls, or has, directly or indirectly, more than ten per cent equity in a business entity that has a substantial interest in any of the functions of the Council;
- (c) receives more than twenty-five per cent of his individual income from a business entity that has a substantial interest in any of the functions of the Council; and

(4) A member shall disclose a potential, real or perceived conflict of interest as soon as he becomes aware of the potential conflict before the Council or any of its committees seized of the matter.

(5) If a member is not certain about the situation of the conflict of interest, the member shall place the matter before the Council for advice and the decision of the Council on conflict of interest shall be final.

(6) A member shall not take part in the proceedings of the Council in which any question of conflict of interest of the member is on the agenda.

(7) The disclosure of conflict of interest and the decision of the Council shall be recorded in the minutes of the meeting.

21. Offence.— (1) If any person knowingly or negligently renders false, incorrect or misleading information to the Council or fails to comply with lawful direction of

the Council or fails to provide information required by the Council, he shall be punished with imprisonment which may extend to six months but which shall not be less than one month and with fine which may extend to five hundred thousand rupees but which shall not be less than fifty thousand rupees.

(2) An offence under this section shall be triable by a Court of Sessions.

(3) The Court shall not take cognizance of an offence under this Act except on a complaint in writing of the Special Prosecutor in the prescribed manner.

22. Appeal.— A person aggrieved by an order or sentence passed by a Court of Sessions under section 20 may, within thirty days, prefer an appeal to the High Court.

23. Recovery of dues.— (1) The Council shall recover the fine, fee or any other amount, imposed or levied under this Act, the rules or the regulations, as an arrears of land revenue and, for the purpose, authorize an employee to exercise the powers of Collector under the Land Revenue Act 1967.

(2) The fee charged under this Act, the rules or the regulations shall be deposited in the National Journalists Safety Fund.

24. Annual performance report.— (1) The Council shall prepare and forward to the Government by 31 August each year, the annual performance report, including detailed information about the activities of the Council, as well as summary of the budget and accounts of the year, and special emphasis on problems being faced by the Council in performance of its functions and proposed solutions of the indicated problems.

(2) The Government shall, within thirty days of the submission of the report by the Council, lay the annual report and monitoring and evaluation report before the National Assembly.

(3) The annual report shall include, among others, the following information:

- (a) collection of accurate data of crimes against the Journalists during the year;
- (b) threat mapping, reasons and causes of crimes against the Journalists during the year;
- (c) weaknesses and gaps in implementation of the law during the year;
- (d) effectiveness of the law in curbing the problematic behaviours; and
- (e) any problem arising out of the implementation of the law.

25. Monitoring and evaluation.– (1) The Government shall, at least once in a year, cause to be independently conducted, the performance audit of the Council to assess and evaluate the performance of the Council in accomplishing the objectives of this Act.

(2) The performance audit or monitoring and evaluation of the Council shall include the extent to which value for money principle followed in expenditures and investment of the National Journalists Safety Fund.

(3) The Council and the Special Prosecutor shall cooperate with the monitoring and evaluation team and make all the record available to it for a meaning performance audit of the affairs of the Council; provided that the Council and Special Prosecutor shall not share information where necessary to protect the lives and rights of others, or other overriding interests.

(4) The Government shall evaluate the reports mentioned in clause (d) of subsection (2) of section 6, subsection (1) of section 24 and subsection (1) of this section shall, as soon as possible but not later than two months from the date receipt of each such report, lay the report in the National Assembly.

(5) The National Assembly may provide feedback to the Council as may be necessary for accomplishing the objectives of this Act and the Council may consider the feedback.

26. Power of the Civil Court under the Code of Civil Procedure, 1908 (5 of 1908).– The Council shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office; and
- (e) any other matter which may be prescribed.

27. Other laws.– (1) The provisions of this Act shall be read in conjunction with and not in derogation from any other law but in case of any inconsistency or conflict, the provisions of this Act shall prevail to the extent of the inconsistency or conflict.

28. Rules.– The Government shall, by notification, make rules for carrying out the purposes of this Act within six months of the enactment of this Act.

29. Regulations.– Subject to this Act, the Council may frame regulations to give effect to the provisions of this Act but not being inconsistent with the rules, if any, made under section 28.

30. Immunity.– No suit, prosecution or any other legal proceedings shall lie against the Council, the Chairperson, Vice Chairperson, Special Prosecutor, any member or employee, expert or consultant of the Council, in respect of anything done or intended to be done in good faith under this Act.

ABOUT THIS DRAFT BILL

This draft was prepared in good faith by Pakistani media rights civil society organizations Institute for Research, Advocacy and Development (IRADA) and Freedom network (FN) through an exhaustive consultation process in 2016-17 with key media stakeholders such as the representative associations of media workers, media managers, media owners and media regulators. In its current formulation, this draft Bill reflects the consensus of the key stakeholders as well as international best practices.

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